

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS AND INTERFERENCES**

In re patent of:

Appeal No. 2007-3210

Charles F. Butler

Patent Application No. 10/039,303

For: SIMULATED WAVE MESSAGE

Art Unit: 3764

Examiner: Glenn Richman

Filing Date: January 2, 2002

**SUBMISSION OF INFORMATION DISCLOSURE STATEMENT**

Submitted herewith, pursuant to instructions, is an Information Disclosure Statement calling to the Patent Office's attention U.S. Patent 6,690,337; European Patent Office publication EP 0 891 761 A2; and European Patent Office publication EP 0 891 761 B1. The European publications were cited in a report of examination from the European Patent Office dated January 11, 2006. The European publication was identified only by its number EP-A-0 891 761, along with another European publication EP-A-0 244 508 which corresponds to U.S. Patent 5,101,810 already of record in this appeal. While a copy of the European publication EP 0 891 761 A2 was attached to the Office Action, the foreign associate responsible for the European application obtained for his use publication EP 0 891 761 B1 which was distinguished by the foreign associate in a subsequent response to the January, 2006 Office Action. The companion A2 publication was not considered by the foreign associate or the undersigned attorney until a subsequent Office Action was received from the European Patent Office and the undersigned attorney discovered very recently that there were two publications with the same numerical number. The A2 publication should have been called to the examiner's attention in this case

although at the time of its receipt, all briefs had been filed in this appeal. Upon discovery of the A2 reference, a corresponding search was conducted for U.S. Patents and it was found that there is a corresponding U.S. Patent, namely, 6,190,337, which relates to the invention of the A2 European Patent Office publication. This U.S. Patent was not known to the applicant nor cited by the examiner during prosecution of the subject appealed application.

Pursuant to 37 CFR § 1.17(p), applicant files herewith its payment of the fee in the amount of \$180.

Respectfully Submitted,

/James D. Hall, Reg. No. 24,893/

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